

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

<b>DAVID DEITZEL</b>	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No.: 03-12560-RGS</b>
	)	
<b>SPRINGFIELD TERMINAL</b>	)	
<b>RAILWAY COMPANY,</b>	)	
<b>Defendant.</b>	)	
	)	

**DEFENDANT, SPRINGFIELD TERMINAL RAILWAY COMPANY’S,  
MOTION FOR STAY PENDING APPEAL AND FOR WAIVER  
OF SUPERSEDEAS BOND, PURSUANT TO F. R. CIV. P. 62**

NOW COMES the defendant, Springfield Terminal Railway Company (“STR”), and respectfully requests that this Honorable Court enter an order staying the plaintiff’s execution of judgment pending the appeal filed by STR and an order waiving the need for STR to post a supersedeas bond, pursuant to F. R. Civ. P. 62. As grounds for this Motion, the defendant relies upon the rule that the District Court retains the discretionary power to stay execution of a money judgment without requiring the filing of a bond. See Federal Prescription Service, Inc. v. American Pharmaceutical Assoc., 636 F. 2d 755, 759 (U.S.C.A. D.C. 1980). Where the defendant’s ability to pay the judgment is so plain that the cost of the bond would be a waste of money, waiver of the bond requirement is appropriate in conjunction with the stay pending appeal. See Cipes v. Mikasa, Inc., 404 F. Supp. 2d 367, 370 (D. Mass. 2005); citing Dillon v. City of Chicago, 866 F. 2d 902, 904-905 (7<sup>th</sup> Cir. 1988).

In the instant case, STR has the ample financial ability to satisfy the judgment in this case in the event that its appeal is unsuccessful. STR operates a railroad system in Massachusetts and other states; and in doing so has sufficient assets and capital such as interests in real property,

locomotives, and other equipment.

WHEREFORE the defendant, Springfield Terminal Railway Company, respectfully requests that this Honorable Court enter an order staying the plaintiff's execution of judgment pending the appeal filed by STR and an order waiving the need for STR to post a supersedeas bond, pursuant to F. R. Civ. P. 62.

**THE DEFENDANT RESPECTFULLY REQUESTS A HEARING AND ORAL  
ARGUMENT ON THE ISSUES RAISED IN THIS MOTION.**

Respectfully submitted,  
By the defendant,  
Springfield Terminal Railway Company,  
By its attorneys,

/s/ John J. O'Brien, Jr.  
John J. O'Brien, Jr.  
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DATED: March 6, 2007

CERTIFICATE OF SERVICE

I, John J. O'Brien, Jr., attorney for the defendant hereby certifies that on this date a true copy of :

**DEFENDANT, SPRINGFIELD TERMINAL RAILWAY COMPANY'S  
MOTION FOR STAY PENDING APPEAL AND FOR WAIVER  
OF SUPERSEDEAS BOND, PURSUANT TO F.R.CIV.P. 62**

was electronically forwarded to the following counsel of record:

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/s/ John J. O'Brien, Jr.  
John J. O'Brien, Jr.

DATED: March 6, 2007